

RESOLUTION NO. 163-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING WAIVER REQUESTS TO SECTION 4.4.13(E)(4)(e)(1)(b) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING STOREFRONT OPENINGS OF SEVENTY-FIVE PERCENT OF THE WIDTH OF THE FAÇADE ON THE EAST SIDE AND SIXTY-TWO PERCENT OF THE WIDTH OF THE FAÇADE ON THE NORTH SIDE OF THE BUILDING LOCATED AT 98 NORTHWEST FIFTH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received a Class III Site Plan application (2019-261) associated with property located at 98 NW 5th Avenue (“the Property”), from the Delray Beach Community Redevelopment Agency (“Applicant/Property Owner”), which involves the rehabilitation, adaptive reuse, and building addition to an existing two-story structure for use as an office/retail building; and,

WHEREAS, the Property is located at the northwest corner of the intersection of NW 5th Avenue and NW 1st Street, within the West Settlers Historic District, is zoned Central Business District (“the CBD”), and is within the West Atlantic Neighborhood Sub-district; and,

WHEREAS, City Land Development Regulation (“the LDR”) Section 4.4.13(E), sets forth frontage standards that define architecture and design components for the entrance(s) to buildings and the area between building facades and streets; and LDR Section 4.4.13(E)(4)(e), states that a storefront is a frontage type along sidewalk level of the ground story, typically associated with commercial uses; and, LDR Section 4.4.13(E)(4)(e)(1)(b), requires storefront (window and door) openings to extend along at least eighty percent of the width of the façade of the commercial space; and,

WHEREAS, proposed storefront openings do not meet the eight-foot height requirements of LDR Section 4.4.13(E)(4)(e)(1)(b), as storefront openings are proposed along seventy-five percent of the east side of the first story of the building and sixty-two percent of the north side of the first-story of the building, and therefore, requires a waiver; and,

WHEREAS, given the existing configuration of the two-story building, the first story does not allow for sufficient space to accommodate the required eighty percent storefront openings; and,

WHEREAS, at its meeting of September 2, 2020, the Historic Preservation Board voted 6 to 0 to recommend approval to the City Commission of the requested waiver to LDR Section 4.4.13(E)(4)(e)(1)(b); and,

WHEREAS, LDR Section 2.4.7(B)(5), which governs waivers from development regulations, requires the approving body to make a finding that the granting of a waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,

(d) Does not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstance on other property for another applicant or owner; and,

WHEREAS, LDR Section 4.4.13(K)(5)(b)(2), which governs waivers from development regulations in the CBD, also requires the approving body to make a finding that the granting of the waiver:

- (a) The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls;
- (b) The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land;
- (c) The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan; and,
- (d) The waiver shall not reduce the quality of civic open spaces provided under this code.; and

WHEREAS, the requested waiver of relief from LDR Section 4.4.13(E)(4)(e)(1)(b) regarding a reduction in the required storefront openings for the proposed development was presented to the City Commission at a quasi-judicial hearing conducted on September 22, 2020; and,

WHEREAS, the City Commission considered the waiver request to LDR Section 4.4.13(E)(4)(e)(1)(b), to allow the required storefront openings to extend along at least seventy-five percent of the width of the façade on the east side of the first-story of the building and sixty-two percent of the width of the façade on the north side of the first story of the building as described in Exhibit “A” in accordance with the standards listed in LDR Sections 2.4.7(B)(5) and 4.4.13(K)(5)(b)(2), and has considered the respective findings as set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings that the requested waiver (1) does not adversely affect the neighboring area, (2) does not significantly diminish the provision of public facilities, (3) does not create an unsafe situation, and (4) does not result in the grant of a special privilege in that the same waivers would be granted under a similar circumstances on other property for another applicant or owner.

Section 3. The City Commission makes positive findings that the requested waiver (1) does not result in an inferior pedestrian experience along a Primary Street; (2) does not allow the creation of significant incompatibilities within nearby buildings or uses of land; (3) does not erode the connectivity of the street network or negatively impact any adopted bicycle/ pedestrian master plan; and(4) does not reduce the quality of civic open spaces provided under this code.

Section 4. The City Commission approves the waiver request to LDR Section 4.4.13(E)(4)(e)(1)(b), and allows the storefront openings on seventy-five percent of the east side of the first story of the building and sixty-two percent of the north side of the first story of the building, as described in Exhibit “A”, which is incorporated herein.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to The Delray Beach Community Redevelopment Agency.

Section 6. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 7. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2020.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney